

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

HENDERSON-UNION RURAL ELECTRIC	)	
COOPERATIVE CORPORATION, INC.	)	
	)	
_____	)	CASE NO. 90-260
	)	
ALLEGED FAILURE TO COMPLY WITH COMMISSION	)	
REGULATIONS	)	

O R D E R

On September 17, 1990, Henderson-Union Rural Electric Cooperative Corporation, Inc. ("Henderson-Union") was directed to appear at a hearing to show cause why it should not be penalized pursuant to KRS 278.990 for its alleged failure to comply with Commission Regulation 807 KAR 5:006, Section 24 and 807 KAR 5:041, Section 3.

Following the commencement of this proceeding, Henderson-Union and Commission Staff entered into negotiations to resolve all disputed issues. On January 29, 1991, they executed a Settlement Agreement which is attached hereto.

In reviewing this Settlement Agreement, the Commission has considered, inter alia, the circumstances surrounding the August 2, 1989 incident, Henderson-Union's past efforts to comply with the Commission's safety regulations and its willingness to improve and enhance its existing safety programs.

After reviewing the Settlement Agreement and being otherwise sufficiently advised, the Commission finds that the Settlement

Agreement is in accordance with the law, does not violate any regulatory principle, results in a reasonable resolution of this case, and is in the public interest.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement, appended hereto, is incorporated into this Order as if fully set forth herein.

2. The terms and conditions set forth in the Settlement Agreement are adopted and approved.

3. Henderson-Union shall pay the agreed penalty within 10 days of the date of this Order by certified check or money order made payable to Treasurer, Commonwealth of Kentucky. Said check or money order shall be mailed or delivered to the Office of General Counsel, Public Service Commission, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky.

Done at Frankfort, Kentucky, this 11th day of February, 1991.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director

FILED

JAN 29 1991

PUBLIC SERVICE  
COMMISSION

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CASE NO. 90-260

ALLEGED FAILURE TO COMPLY WITH COMMISSION  
REGULATIONS

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into this 27<sup>th</sup> day of January, 1991, by and between Henderson-Union Rural Electric Cooperative Corporation, Inc. ("Henderson-Union") and the Staff of the Public Service Commission of Kentucky ("Commission Staff").

WHEREAS, Commission Staff issued an Electrical Utility Accident Investigation Report dated August 20, 1990 ("Investigation Report") detailing its investigation of an accident which involved Henderson-Union facilities; and

WHEREAS, Commission Staff in its Investigation Report found that certain actions of Henderson-Union constituted probable violations of Commission Regulations 807 KAR 5:006, Section 24 and 807 KAR 5:041, Section 3; and

WHEREAS, on September 17, 1990, the Public Service Commission of Kentucky ("Commission") ordered Henderson-Union to show cause why it should not be subject to the penalties of KRS 278.990 for

its alleged violations of Commission Regulations 807 KAR 5:006, Section 24 and 807 KAR 5:041, Section 3; and

WHEREAS, Henderson-Union and Commission Staff have stipulated to the following:

1. Henderson-Union is a private corporation formed under the provisions of KRS Chapter 279, is engaged in the distribution of electricity to the public, for compensation, for light, heat, power and other uses, and is therefore a utility subject to the regulatory jurisdiction of the Commission.
2. Commission Regulation 807 KAR 5:006, Section 24, requires an electrical utility to submit to the Commission a summary written report of any utility related accident which results in death or serious injury. It further requires that such report be submitted within seven days of the accident.
3. Commission Regulation 807 KAR 5:041, Section 3, requires an electric utility to maintain its plant and facilities in accordance with the standards of the National Electric Safety Code (1987 Edition) ("NESC").
4. On August 2, 1990, Larry Mattingly suffered burns to his hands while trimming tree limbs near an energized single-phase 14,400 volt primary line owned by Henderson-Union and located in Crittenden County, Kentucky. At the time of the accident, Mr. Mattingly was not wearing the rubber gloves provided to him by Henderson-Union for work.
5. Mr. Mattingly's failure to wear rubber gloves while working near energized lines violated NESC Section 42(420H) which requires that employees use the personal protective equipment and devices provided for work.
6. Henderson-Union's safety rules require all employees to use rubber gloves when working near energized lines.
7. At the time of the accident, Roger Adams was supervising Mr. Mattingly's work activities.

8. Mr. Adams' failure to require Mr. Mattingly's use of rubber gloves while working near an energized line is a violation of NESC Section 42(421B) which directs a first line supervisor a foreman to see that safety rules and operating procedures are observed by the employees under his direction.
9. At the time of the accident, Messrs. Adams and Mattingly were employees of Henderson-Union and were acting within the scope of their employment.
10. Immediately following the accident, Mr. Mattingly was taken to Crittenden County Hospital. He did not lose consciousness, suffer any chest pain, or experience any headache, nausea or vomiting. The examining physician found "a small burn area with two pinpoint burn areas on. . . his [Mr. Mattingly's] left palm." All tests on Mr. Mattingly produced negative (i.e., normal) results. Mr. Mattingly was hospitalized overnight for observation and then discharged. He returned to work on August 8, 1990.
11. Henderson-Union notified the Commission of this accident by telephone on August 3, 1990. Commission Staff and Henderson-Union conducted a site inspection on August 6, 1990.
12. Henderson-Union submitted a summary written report of this accident to the Commission on August 16, 1990; and

WHEREAS, Henderson-Union and Commission Staff desire to settle the issues raised by this proceeding.

NOW, THEREFORE, Henderson-Union and Commission Staff agree as follows:

1. Henderson-Union shall, within ten days of entry of an Order approving this Settlement Agreement, pay to the Kentucky State Treasurer the sum of five hundred dollars (\$500) as a penalty for any and all violations of Commission regulations arising out of the August 2, 1990 accident.

2. Henderson-Union shall strictly enforce without exception the discipline procedures set forth in its Employee Handbook, a copy of the pertinent sections being attached hereto as Appendix A, for any employee failing to comply with its Safety Rules and Regulations and/or the provisions of the NESC.

3. At least once each month, Henderson-Union shall hold formal safety meetings which all Henderson-Union employees involved in the construction and maintenance of its facilities shall be required to attend. At these meetings, Henderson-Union shall provide extensive training on safety rules and procedures.

4. Henderson-Union shall hold informal meetings, or "tailgate sessions," among its work and construction crews prior to the commencement of any work project to review and briefly discuss safety rules and procedures. Henderson-Union's management shall monitor such meeting to ensure that safety rules and procedures are actually discussed.

5. Following any accident involving a Henderson-Union facility which results in a fatality or a serious injury, Henderson-Union shall, as soon as reasonably possible, but no later than 30 days after the accident occurred, hold a formal meeting of all employees involved in the construction and maintenance of its facilities to review the accident and to discuss safety measures which might have prevented it.

6. Henderson-Union shall emphasize to its supervisory employees their responsibility for ensuring that all subordinates comply with local safety rules and the provisions of the NESC. Henderson-Union shall within 120 days of the date the Commission

accepts and approves this Settlement Agreement advise the Commission in writing of the actions which it has taken or will take in this regard.

7. This Settlement Agreement constitutes full satisfaction of any penalties arising out of this proceeding against Henderson-Union. Commission Staff shall recommend to the Commission that this Settlement Agreement be approved and that this proceeding be closed and removed from the Commission's docket.


8. This Settlement Agreement is subject to the acceptance and approval of the Commission.

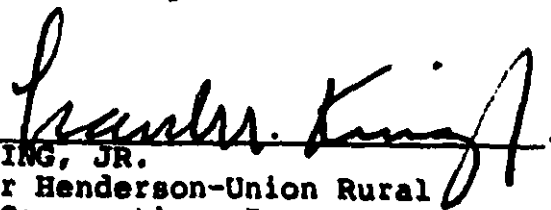
9. If the Commission fails to accept and approve the Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during settlement negotiations shall be binding on any signatory.


10. If the Commission accepts and approves this Settlement Agreement in its entirety and enters an Order in this proceeding to that effect, Henderson-Union shall not apply for rehearing in this proceeding nor bring an action for review of that Order.

IN WITNESS WHEREOF, Henderson-Union and Commission Staff have executed this Settlement through their duly authorized attorneys.

AGREED TO BY:

  
\_\_\_\_\_  
JOHN F. WEST  
General Manager, Henderson-Union Rural  
Electric Cooperative, Inc.

  
FRANK N. KING, JR.  
Counsel for Henderson-Union Rural  
Electric Cooperative, Inc.

  
GERALD E. WUETCHER  
Counsel for Public Service Commission  
of Kentucky Staff



If it becomes necessary for the Cooperative to discharge an employee due to among others, drunkenness, dishonesty, insubordination, misconduct or unauthorized use of Cooperative vehicles, a notice period or payment in lieu of notice need not be given. Any accrued benefits may also be disallowed if the offense is severe enough to warrant.

#### **PROGRESSIVE DISCIPLINE**

Employees who are disciplined due to misconduct will be disciplined as follows:

1. Informal meetings and oral reprimands;
2. Written deficiency notices;
3. Formal evaluation conferences documented by written records;
4. Suspension without pay; and
5. Termination

#### **LAYOFF**

Employees who are laid off will receive severance pay as explained under Discharge.

Preference will be given to any employee laid off for rehire according to length of service and qualifications.

#### **RESIGNATION**

Employees resigning will be paid for unused vacation and sick leave earned to date, if proper two (2) weeks' notice is given.

#### **SEVERANCE PAY**

Please refer to the type of severance above for explanation. Severance pay will be given in lieu of vacation pay, but not both. Severance pay does not apply to resignations.

HENDERSON-UNION RURAL ELECTRIC  
COOPERATIVE CORPORATION

Corporate Memo

To: Operations Staff  
From: John West  
Date: October 17, 1990  
Subject: Safety Rules and Penalties

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After the accident August 2, 1990 involving Larry Mattingly and Roger Adams when contact was made with an energized line while trimming a tree, Staff met with a group of line personnel and discussed future directions to be taken to assure compliance of Safety Rules and Regulations. The consensus of the group indicated the Safety Manual adopted by Henderson-Union and the American Public Power Association was very adequate and fair, and we should proceed to operate under these guidelines. The present Employee Handbook lists procedures for progressive discipline as follows:

1. Informal meetings and oral reprimands;
2. Written deficiency notices;
3. Formal evaluation conferences documented by written records;
4. Suspension without pay; and
5. Termination

This will allow four attempts to correct behavior of any given employee before termination and every opportunity will be afforded the individual to change his behavior.

Henderson-Union's supervisors are directed to spend ten percent (10%) of their normal working hours per month in the field assessing and directing work procedures. The supervisor shall file a report of all facts to be presented to the Director of Operations and Engineering for review and compliance. Safety violations noted during these visits will be dealt with in accordance with the Employee Handbook. This procedure in no way releases the crew foreman or individual from their daily responsibilities or safe working habits.

We are in the process of hiring a Safety and Job Training Director that will be available to Henderson-Union twenty-five percent (25%) of the time or approximately one week per month and his responsibilities will be as outlined in the job description attached hereto.